

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

MARTY ARNETT,)	
)	
Petitioner)	
)	
v.)	No. 3:05cv0631 AS
)	
JOHN R. VANNATTA,)	
)	
Respondent)	

MEMORANDUM, OPINION AND ORDER

On or about October 4, 2005, *pro se* petitioner, Marty Arnett, an inmate at the Correctional Industrial Facility in Pendleton, Indiana (CIF), filed a petition seeking relief under 28 U.S.C. §2254. The Response filed on behalf of the respondent by the Attorney General of Indiana on January 19, 2007, demonstrates the necessary compliance with *Lewis v. Faulkner*, 689 F.2d 100 (7th Cir. 1982).

The petitioner is a convicted felon serving a sentence imposed by a court in the State of Indiana. At the time of the filing of this petition he was incarcerated in the CIF, not located in this district. However, the relevant conduct appears to have occurred in this district. There was a Conduct Adjustment Board apparently at the CIF which occurred on April 22, 2004, designated as IYC 04-04-0138. The evidence summarized in the papers of this case appear to be sufficient under *Wolff v. McDonnell*, 418 U.S. 539 (1974), as well as *Superintendent, Mass. Corr. Institution at Walpole v. Hill*, 472 U.S. 445 (1985). There is

certainly a “some evidence” test applicable in this circuit. *See Webb v. Anderson*, 224 F.3d 649 (7th Cir.), *cert. denied*, 531 U.S. 999 (2000), *McPherson v. McBride*, 188 F.3d 784 (7th Cir. 1999), and *Meeks v. McBride*, 81 F.3d 717 (7th Cir. 1996).

It is of some moment here to consider the nature of the weapon and where it was found as analyzed under *Hamilton v. O'Leary*, 976 F.2d 341 (7th Cir. 1992). When *Hamilton* is considered in the context of the string of cases including *McPherson-Meeks-Webb*, there is no basis for relief here presented under 28 U.S.C. §2254, and such is now **DENIED. IT IS SO ORDERED.**

DATED: March 7, 2007

S/ ALLEN SHARP

ALLEN SHARP, JUDGE
UNITED STATES DISTRICT COURT